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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,294	09/08/2000	Benedetto Vigna	854063.582	3523

7590 07/18/2002

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EXAMINER

KWOK, HELEN C

ART UNIT

PAPER NUMBER

2856

DATE MAILED: 07/18/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/658,294

Applicant(s)

Vigna et al.

Examiner

H. Kwok

Art Unit

2856



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Mar 27, 2002
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-25 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s). 5 6) ☐ Other:

Art Unit: 2856

DETAILED ACTION

Election/Restriction

1. Applicant's election without traverse of claims 1-25 in Paper No.10 is acknowledged. It should be noted that the restriction made by the Examiner has been withdrawn due to the comments presented in the response filed April 26, 2002. Therefore, claims 1-25 are presently pending.

Priority

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 1-25 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Art Unit: 2856

In claim 1, line 2, the phrase “actuator means” is indefinite since it does specify a function to be performed. In lines 3-4, the phrase “the position offset” lacks antecedent basis. It should be changed to -- a position offset --.

In claim 3, line 3, the phrase “said first fixed arm” (two occurrences) lacks antecedent basis. In line 4, the phrase “the first fixed arm” lacks antecedent basis.

In claim 4, line 3, the phrase “said first fixed arms” lacks antecedent basis.

In claim 5, line 2, the phrase “said first fixed arms” lacks antecedent basis.

In claim 6, line 2, the phrase “said actuator elements” lacks antecedent basis.

In claim 7, line 2, the phrase “said actuator elements” lacks antecedent basis.

In claim 8, line 2, the phrase “said actuator elements” lacks antecedent basis.

In claim 9, line 2, the phrase “said actuator elements” lacks antecedent basis.

In claim 10, line 2, the phrase “said actuator elements” lacks antecedent basis.

In claim 11, lines 2 and 3, it is unclear how could there be “a plurality of second mobile arms” and “a plurality of second fixed arms” when there is no mention of a first mobile arm and a first fixed arms.

In claim 12, line 2, please clarify the “third fixed arms” and the “second mobile arm”.

In claim 13, line 1, the phrase “the position offset” lacks antecedent basis. It should be changed to - a position offset --.

In claim 17, line 2, the phrase “the difference” should be changed to -- a difference --.

In claim 18, line 3, the phrase “a reference” should be changed to -- said reference --.

In claim 19, line 7, the phrase “the positions” should be changed to -- positions --.

Art Unit: 2856

In claim 22, line 6, the phrase "the difference" should be changed to -- a difference --.

In claim 23, line 3, the phrase "the reference" should be changed to -- a reference --. In line 3, the phrase "the driver signal" lacks antecedent basis.

In claim 24, line 4, the phrase "the mean value" should be changed to -- a mean value --.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321© may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Art Unit: 2856

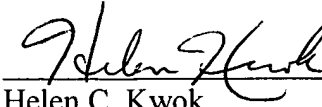
6. Claims 1-25 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-19 of U.S. Patent No. 6,370,954 (Zerbini et al.). Although the conflicting claims are not identical, they are not patentably distinct from each other because all of the features presently claimed are being claimed in the U.S. Patent 6,370,954. Hence, they are not patentably distinct from one another.

Conclusion

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

The references cited are related to sensors having a rotating mass coupled to a fixed support.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Helen Kwok whose telephone number is (703) 308-8149.


Helen C. Kwok
Art Unit 2856

hck
July 9, 2002